

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATERSHED MANAGEMENT

PROPOSED AMENDMENT TO THE ATLANTIC, LOWER DELAWARE, LOWER RARITAN/MIDDLESEX, MERCER, MONMOUTH, NORTHEAST, OCEAN, TRI-COUNTY, UPPER DELAWARE AND UPPER RARITAN, AREAWIDE WATER QUALITY MANAGEMENT PLANS EXCEPT FOR THE AREA WITHIN THE HIGHLANDS PRESERVATION AREA

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Atlantic, Lower Delaware, Lower Raritan/Middlesex, Mercer, Monmouth, Northeast, Ocean, Tri-County, Upper Delaware and Upper Raritan Water Quality Management (WQM) Plans. This amendment is not applicable to any area within the Highlands Preservation Area as designated at N.J.S.A. 13:20-7b. Areas within the Highlands Preservation Area are addressed in a separate notice published in the September 19, 2005 issue of the New Jersey Register (see 37 NJR 3731(a)). This proposed amendment is further not applicable to areas covered by an adopted wastewater management plan which has been updated in accordance with the Water Quality Management Planning Rules, N.J.A.C. 7:15.

For the reasons explained below, in the areas covered by this amendment, the Department proposes to revoke all wastewater service area designations where the wastewater service is to be provided by individual subsurface disposal systems (ISSDS), commonly referred to as septic systems. The Department proposes to redesignate these areas as "Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 Gallons Per Day Which Discharge to Ground Water." Currently, the determination as to whether a project is consistent with the less than 2,000 gpd wastewater service area designation is based upon individual discharge volumes, regardless of how many individual discharges are included in the project. For areas covered by this proposed amendment, the Department is proposing that wastewater capacity for a project be determined on

a cumulative, project-wide basis, so that any project that has a total wastewater design capacity of 2,000 gpd or more, whether proposing single or multiple wastewater discharges, will be inconsistent with the less than 2,000 gpd wastewater service area designation and will require the adoption of an amendment or revision to the areawide WQM Plan before permits for that project can be issued by the Department.

A WMP is a comprehensive and detailed planning document intended to ensure that adequate wastewater treatment capacity is available to accommodate the needs of existing and future development. These plans are essential to ensuring that the planned method of wastewater treatment is appropriate given local environmental constraints and that wastewater treatment facilities can accommodate the future needs of the wastewater management planning area. Therefore, to accomplish these objectives, a WMP must incorporate existing wastewater facilities information, existing land use, current local zoning, pending development proposals, environmental constraints, site suitability and future development plans. The wastewater management alternatives identified in a WMP will also influence the density of development, the pattern of growth and the environmental impacts associated with that development in the wastewater management planning area. As a component of an areawide WQM Plan, WMPs must also address the impact of those wastewater management decisions, and the pattern and density of development they allow, on water quality, water quantity and other environmental features.

The WQM Planning rules require that each WMP address all types of domestic treatment works (DTW) including DTWs that utilize surface and ground water discharges. The WMP must include a description of wastewater service areas and DTWs necessary to meet anticipated wastewater management needs over a 20-year period. Each WMP must provide for cost-effective, environmentally sound wastewater management to meet future wastewater management needs (N.J.A.C. 7:15-5.15 and 5.18). As part of the WMP, areas may be designated for

different types of wastewater service as appropriate for the density and type of development planned for that particular area. One of the area designations included in WMPs is service by individual subsurface sewage disposal systems (ISSDS), commonly referred to as septic systems. Areas serviced by ISSDS may be designated as “Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 Gallons Per Day Which Discharge to Ground Water.” All areas in WQM Plans that do not have an adopted WMP and are not specifically designated for another type of wastewater service default to the “Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 Gallons Per Day Which Discharge to Ground Water” or ISSDS service area designation.

The Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C. 7:9A-1 et seq.) provide standards for the proper location, design, construction, alteration and operation of septic systems on a site-by-site basis. However, these standards do not consider the cumulative effect of these discharges on ground water quality and they do not consider the effect of the development they serve on nonpoint source pollution loading, water supply sustainability, and sensitive environmental resources. These concerns are intended to be addressed in the WQM Plans and their component WMPs. Where WMPs have not been adopted or updated as required by the WQM Planning rules, these analyses, if performed at all, cannot be relied upon to accurately predict and mitigate these environmental impacts.

WMPs are part of the State’s continuing planning process mandated by the Water Quality Planning Act at N.J.S.A. 58:11A-7. The continuing planning process is intended to integrate and coordinate WQM Plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities, programs and policies (see N.J.A.C. 7:15-2.1). WMPs must be updated periodically in order to reflect and respond to changes in municipal master planning and zoning, State and regional planning activities, regulatory

changes, and to ensure that the most up-to-date information is fully incorporated into the decisions made concerning wastewater management choices. An outdated WMP cannot be relied upon to accurately predict the future wastewater management needs of the WMP area. Similarly, where land use plans have changed, outdated WMPs may not accurately assess point and nonpoint source pollutant loading, hydro modification issues, water supply sustainability, and the protection of sensitive environmental resources.

The Water Quality Planning Act, at N.J.S.A. 58:11A-10, requires the Department to ensure that its funding and permitting decisions do not conflict with the water quality and land use planning embodied in the areawide WQM Plans. The Department relies on the WMP components of the areawide WQM Plans to provide a comprehensive evaluation of the cumulative effects of land use on the water resources of the State. If the WMP is not updated, the implications of new information, such as threatened and endangered species sightings, pollutant loading, or sustainability of water supply, may not be adequately reflected in the plan against which the project will be measured. For example, wastewater service areas established in an outdated WMP may not reflect more recently adopted groundwater classifications and standards and may not accurately reflect current zoning. Wastewater management decisions based on these outdated WMPs may lead to a greater density of development than is appropriate using individual subsurface sewage disposal for wastewater management, resulting in a contravention of the groundwater quality standards.

If a project is not consistent with the WQM Plan, the project can only proceed if the WQM Plan is amended such that the project becomes consistent with the WQM Plan. As part of the amendment process, the Department will conduct a detailed review of the impacts of the project on water resources, in light of existing and planned development in the area. The Department will not issue a modification to the WQM Plan for the project unless it can be demonstrated that the impact of the project, when considered in combination with the existing and

planned development, will continue to provide for adequate wastewater management, as well as the protection of water resources and other sensitive environmental resources. However, this process is neither effective nor efficient when the WMP component of the WQM Plan has not been updated. Relying on an outdated WMP or no WMP in the decision making process on an amendment can result in the failure to accurately assess the current wastewater management needs of the wastewater management planning area thereby resulting in a density of septic systems that would contravene the groundwater quality standards because inadequate dilution of septic effluent is available. Where development is served by individual wells wastewater management decisions based on old data may render those wells unacceptable for drinking water supply due to contamination in the future.

Wastewater management planning agency responsibility for WMP promulgation and update is established in accordance with the WQM Planning rules at N.J.A.C. 7:15-5.3 through 5.8. In accordance with N.J.A.C. 7:15-5.23, each wastewater management planning agency must periodically prepare and submit WMPs. The first such submission was to be made between 1990 and 1994, in accordance with the schedule established in N.J.A.C. 7:15-5.23(b) through (e). Thereafter, an updated WMP is to be submitted at least once every six years from the date of the previous submission. (N.J.A.C 7:15-5.23(a)).

There is widespread non-compliance with the legal requirement to prepare and update WMPs in accordance with N.J.A.C. 7:15-5.23. Over the years, the Department has notified, encouraged and directed WMP agencies to satisfy their obligation to prepare and update WMPs in accordance with the rules. However, of the required WMPs only 13 are currently in compliance with the schedule; 63 wastewater management planning agencies have never adopted a WMP and 117 WMPs are out of date. As a result, many WMPs cannot presently be relied upon to plan for the future wastewater management needs of development and the protection of water resources.

Based upon the above, the Department finds it necessary and desirable to amend the areawide WQM Plans pursuant to N.J.A.C. 7:15-3.4(a) in order to ensure that proper wastewater management planning is conducted and to protect water resources while new WMPs are being developed and adopted.

Except as provided below, effective upon adoption of this proposed amendment, all wastewater service area designations of "Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 Gallons Per Day which Discharge to Ground Water" in areas outside of the Highlands Preservation area which are not covered by an adopted WMP that is in compliance with the Water Quality Management Planning rules updating requirement, will be revoked and redesignated.

The proposed amendment will have varying impacts depending upon the design of the planned project. For example, the minimum design flow for a single-family home, pursuant to N.J.A.C. 7:9A-7.4, is 350 gpd. Currently, if there are 40 discharges of 350 gpd each in a project, (which is not uncommon for residential housing projects) with a cumulative discharge of 14,000 gpd, the project is consistent with the less than 2,000 gpd wastewater discharge designation and no further review of the environmental impacts is required as part of the WQM planning process. After the amendment, in recognition of the cumulative water quality and environmental impacts that may be created by such development, the project will be considered inconsistent with the areawide WQM Plan and a modification to the areawide WQM Plan would be required before permits could be issued by the Department. The Department's decision on whether to modify the areawide WQM Plan to make the project consistent will be based on the cumulative water quality impact of discharges from all systems utilized in the project and the environmental impact of the development they support. However, a project which would discharge a total of less than 2,000 gpd of wastewater, whether from one or more total treatment units, would not be

impacted by the proposed amendment and would be consistent with the applicable WQM Plan both before and after adoption of the amendment because such projects are expected to have a minimal impact on water resources.

This proposed amendment will ensure that the WQM Plan review process will be based upon information that will provide adequate consideration of the potential water and environmental resource impacts associated with projects that propose to discharge wastewater to ground water. All development proposals must demonstrate that wastewater disposal systems discharging to ground water will not violate the Ground Water Quality Standards (N.J.A.C. 7:9C).

The following are exceptions to the above proposal to revoke and redesignate the affected wastewater service areas now identified as “Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 Gallons Per Day Which Discharge to Ground Water:”

- 1) Projects that have a valid approval issued by the Department, as of the date of adoption of this amendment, for construction of 50 or more realty improvements issued pursuant to the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.; or
- 2) Projects that have received, prior to the adoption of this amendment, both a local site plan approval or subdivision approval where subsequent site plan approval is not required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. or a municipal construction permit; and a Land Use Regulation Program permit, if one is required, until such time as one of those qualifying approvals expires.

3) The following agencies have WMPs that are in compliance with the schedule at N.J.A.C. 7:15-5.23 and thus the sewer service and general service area designations in those WMPs are unaffected by this amendment:

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| North Hanover Township | Lower Raritan/Middlesex |
| Beverly Sewer Authority | Mt. Arlington Borough |
| Cape May County | Carney's Point |
| Livingston Township | Salem, Alloway, Quinton |
| East Greenwich | Montgomery Township |
| Greenwich Township | Sussex County |
| Harrison Township | |

A list of the affected WMP agencies is available on the Department's webpage at <http://www.nj.gov/dep/watershedmgt/wqmps.htm>.

Public hearings on the proposed WQM Plan amendment will be held as follows:

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| Date: | November 17, 2005 |
| Time: | 1:00 pm to 5:00 pm |
| Location: | Lewis Morris County Park and Cultural Center 300 Mendham Road (County Road 510) Morris Township, New Jersey. |
| Date: | November 21, 2005 |
| Time: | 1:00 pm to 5:00 pm |
| Location: | Rutgers EcoComplex Environmental Research and Extension Center 1200 Florence-Columbus Road Mansfield Township, New Jersey. |
| Date: | November 30, 2005 |

Time: 1:00 pm to 5:00 pm
Location: Galloway Township Library
306 East Jimmie Leeds Road
Galloway, New Jersey.

Interested persons may submit written comments on the amendment to WQM Program Docket, Department of Environmental Protection, Division of Watershed Management, P.O. Box 418, 401 East State Street, Trenton, New Jersey 08625. All comments must be submitted within 15 days following the last public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.

Any interested person may request in writing that the Department extend the public comment period in this notice up to 30 additional days. These requests must state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of the date of this public notice to WQM Program Docket at the Department address cited above.

Lawrence J. Baier, Director
Division of Watershed Management
Department of Environmental Protection

Date